

Appl. No. 09/845,941
Assy. Docket No. P126
Appeal Brief February 14, 2005
Customer No. 27752

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/845,941
Applicant(s) : Hayek et al.
Filed : April 30, 2001
Title : Pet Food Composition For Reducing
Inflammatory Response In Cats
TC/A.U. : 1617
Examiner : Mojdeh Bahar
Conf. No. : 3312
Docket No. P126
Customer No. : 27752

APPEAL BRIEF

Mail Stop Appeal Brief - Parents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450
Dear Sir,

This Brief is filed pursuant to the appeal from the U.S. Patent and Trademark Office decision mailed June 16, 2004 finally rejecting Claims 1-4, 10, and 11. A Notice of Appeal was timely filed on September 24, 2004. Attached hereto is a Petition for Extension of Time, and the fee required under 37 C.F.R. § 1.17(a)(1), providing for a timely filing of this brief to and including February 24, 2005.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

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The Examiner further states that Brown teaches that cat foods can be in canned or kibble form.

Appellants assert that the arguments presented above regarding Reinhart in traversing the § 103(a) rejection also apply to the present rejection. The Reinhart reference fails to teach or even suggest low levels of dietary fat (from about 7% to about 14%) in combinations with the criticality of omega-3 or omega-6 fatty acid source at this specific level.

Moreover, as Brown does nothing to remedy the deficiencies of Reinhart, the non-obviousness of Claims 10 and 11 has also been demonstrated. That Brown teaches canned and kibble cat foods is immaterial to the inventive discoveries relevant to low levels of lipid in combination with the specified omega-3-fatty acid, flax seed oil. The combination of Reinhart and Brown does not teach or suggest each and every element of Appellants' presently claimed invention.

Therefore, Appellants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

SUMMARY

In view of all of the above, it is respectfully submitted that the aforementioned rejections are erroneous. The Board's reversal of the rejections is respectfully requested.

Respectfully Submitted,

THE PROCTER & GAMBLE COMPANY

By Cynthia L. Clay

Cynthia L. Clay
Registration No. 54,930
(513) 622-0291

February 14, 2005

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